



General Assembly

January Session, 2001

Raised Bill No. 7007

LCO No. 4902

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING CRIME VICTIMS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-251 of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) Any person who has been convicted or found not guilty by
4 reason of mental disease or defect of a criminal offense against a victim
5 who is a minor or a nonviolent sexual offense, and is released into the
6 community on or after October 1, 1998, shall, within three days
7 following such release, and whether or not such person's place of
8 residence is in this state, register such person's name, identifying
9 factors, criminal history record and residence address with the
10 Commissioner of Public Safety, on such forms and in such locations as
11 the commissioner shall direct, and shall maintain such registration for
12 ten years except that any person who has one or more prior
13 convictions of any such offense or who is convicted of a violation of
14 subdivision (2) of subsection (a) of section 53a-70 shall maintain such
15 registration for life. Prior to accepting a plea of guilty or nolo
16 contendere from a person with respect to a criminal offense against a
17 victim who is a minor or a nonviolent sexual offense, the court shall (1)

18 inform the person that the entry of a finding of guilty after acceptance
19 of the plea will subject the person to the registration requirements of
20 this section, and (2) determine that the person fully understands the
21 consequences of the plea. If such person changes such person's address
22 such person shall, within five days, register the new address in writing
23 with the Commissioner of Public Safety, and, if the new address is in
24 another state, such person shall also register with an appropriate
25 agency in that state, provided that state has a registration requirement
26 for such offenders. If any person who is subject to registration under
27 this section regularly travels into or within another state or
28 temporarily resides in another state for purposes including, but not
29 limited to employment or schooling, such person shall notify the
30 Commissioner of Public Safety and shall also register with an
31 appropriate agency in that state provided that state has a registration
32 requirement for such offenders. During such period of registration,
33 each registrant shall complete and return forms mailed to such
34 registrant to verify such registrant's residence address and shall submit
35 to the retaking of a photographic image upon request of the
36 Commissioner of Public Safety.

37 (b) Notwithstanding the provisions of subsection (a) of this section,
38 the court may exempt any person who has been convicted or found
39 not guilty by reason of mental disease or defect of a violation of
40 subdivision (1) of subsection (a) of section 53a-71 from the registration
41 requirements of this section if the court finds that such person was
42 under nineteen years of age at the time of the offense and that
43 registration is not required for public safety.

44 (c) Notwithstanding the provisions of subsection (a) of this section,
45 the court may exempt any person who has been convicted or found
46 not guilty by reason of mental disease or defect of a violation of
47 subdivision (2) of subsection (a) of section 53a-73a from the
48 registration requirements of this section if the court finds that
49 registration is not required for public safety.

50 (d) Any person who files an application with the court to be
51 exempted from the registration requirements of this section pursuant
52 to subsection (b) or (c) of this section shall give notice of such
53 application, on a form prescribed by the Office of Chief Court
54 Administrator, to the victim of the offense by registered or certified
55 mail and such victim shall have the opportunity to be heard thereon.
56 Prior to granting or denying such application, the court shall consider
57 any information or statements provided by the victim.

58 [[d)] (e) Any person who violates the provisions of subsection (a) of
59 this section shall be guilty of a class D felony.

60 Sec. 2. Subsection (c) of section 54-255 of the general statutes is
61 repealed and the following is substituted in lieu thereof:

62 (c) Any person who: (1) Has been convicted or found not guilty by
63 reason of mental disease or defect of a violation of subdivision (1) of
64 subsection (a) of section 53a-71 between October 1, 1988, and June 30,
65 1999, and was under nineteen years of age at the time of the offense; (2)
66 has been convicted or found not guilty by reason of mental disease or
67 defect of a violation of subdivision (2) of subsection (a) of section 53a-
68 73a between October 1, 1988, and June 30, 1999; (3) has been convicted
69 or found not guilty by reason of mental disease or defect of a criminal
70 offense against a victim who is a minor, a nonviolent sexual offense or
71 a sexually violent offense, between October 1, 1988, and June 30, 1999,
72 where the victim of such offense was, at the time of the offense, under
73 eighteen years of age and related to such person within any of the
74 degrees of kindred specified in section 46b-21; (4) has been convicted
75 or found not guilty by reason of mental disease or defect of a violation
76 of section 53a-70b between October 1, 1988, and June 30, 1999; or (5)
77 has been convicted or found not guilty by reason of mental disease or
78 defect of any crime between October 1, 1988, and September 30, 1998,
79 which requires registration under sections 54-250 to 54-259, inclusive,
80 and (A) served no jail or prison time as a result of such conviction or
81 finding of not guilty by reason of mental disease or defect, (B) has not

82 been subsequently convicted or found not guilty by reason of mental
83 disease or defect of any crime which would require registration under
84 sections 54-250 to 54-259, inclusive, and (C) has registered with the
85 Department of Public Safety in accordance with sections 54-250 to 54-
86 259, inclusive; may petition the court to order the Department of Public
87 Safety to restrict the dissemination of the registration information to
88 law enforcement purposes only and to not make such information
89 available for public access. Any person who files such a petition shall
90 give notice of such petition, on a form prescribed by the Office of Chief
91 Court Administrator, to the victim of the offense by registered or
92 certified mail and such victim shall have the opportunity to be heard
93 thereon. Prior to granting or denying such petition, the court shall
94 consider any information or statements provided by the victim. The
95 court may order the Department of Public Safety to restrict the
96 dissemination of the registration information to law enforcement
97 purposes only and to not make such information available for public
98 access, provided the court finds that dissemination of the registration
99 information is not required for public safety.

100 Sec. 3. Section 17a-601 of the general statutes is repealed and the
101 following is substituted in lieu thereof:

102 (a) For the purposes of this section, "victim" means a person who is
103 a victim of a [class A, B or C felony] crime, the legal representative of
104 such person or a member of a deceased victim's immediate family.

105 (b) Any court rendering a judgment of acquittal pursuant to section
106 53a-13 shall make a specific finding as to whether there is a victim of
107 the act committed by the acquittee and, if so, whether the victim
108 desires notice pursuant to this section. If the court finds that a victim
109 desires notice, it shall notify the victim of any hearing held by the court
110 pursuant to section 17a-582 or 17a-593. The court shall, on committing
111 an acquittee to the jurisdiction of the board, identify the victim to the
112 board and the board shall thereafter make a reasonable effort to notify
113 the victim of any board hearings or orders or of any escape of the

114 acquittee. The victim may appear at any court or board hearing
115 concerning the acquittee to make a statement.

116 Sec. 4. Section 18-27a of the general statutes is repealed and the
117 following is substituted in lieu thereof:

118 (a) For the purposes of this section, "victim" means [the victim] a
119 person who is a victim of a crime, the legal representative of [the
120 victim] such person or a member of a deceased victim's immediate
121 family.

122 (b) At a session held by the Board of Pardons to consider whether to
123 grant a commutation of punishment or release, conditioned or
124 absolute, a commutation from the penalty of death or a pardon,
125 conditioned or absolute, to any person convicted of [a class A, B or C
126 felony or a violation of section 53a-60a, 53a-60c, 53a-72b, 53a-103a or
127 53a-216] any crime, the board shall permit any victim of the crime for
128 which the person was convicted to appear before the board for the
129 purpose of making a statement for the record concerning whether the
130 convicted person should be granted such commutation, release or
131 pardon. In lieu of such appearance, the victim may submit a written
132 statement to the board and the board shall make such statement a part
133 of the record at the session.

134 (c) If the Board of Pardons is prepared to grant a commutation of
135 punishment or release, conditioned or absolute, a commutation from
136 the penalty of death or a pardon, conditioned or absolute, to a person
137 convicted of an offense involving the use, attempted use or threatened
138 use of physical force against another person or resulting in the physical
139 injury, serious physical injury or death of another person, it shall make
140 reasonable efforts to locate and notify any victim of the crime for
141 which such person was convicted prior to granting such commutation,
142 release or pardon and shall permit such victim to appear before the
143 board and make a statement or submit a statement as provided in
144 subsection (b) of this section.

145 (d) Upon the granting to any person of a commutation of
146 punishment or release, conditioned or absolute, a commutation from
147 the penalty of death or a pardon, conditioned or absolute, the Board of
148 Pardons shall forthwith notify the Office of Victim Services of its
149 action.

150 Sec. 5. Section 54-126a of the general statutes is repealed and the
151 following is substituted in lieu thereof:

152 (a) For the purposes of this section, "victim" means [the victim] a
153 person who is a victim of a crime, the legal representative of [the
154 victim] such person or a member of [the] a deceased victim's
155 immediate family.

156 (b) At a hearing held by a panel of the Board of Parole for the
157 purpose of determining the eligibility for parole of an inmate
158 incarcerated for the commission of [a class A, B or C felony or for a
159 violation of section 53a-60a, 53a-60c, 53a-72b, 53a-103a or 53a-216] any
160 crime, such panel shall permit any victim of the crime for which the
161 inmate is incarcerated to appear before the panel for the purpose of
162 making a statement for the record concerning whether the inmate
163 should be released on parole or the nature of any terms or conditions
164 to be imposed upon any such release. In lieu of such appearance, the
165 victim may submit a written statement to the panel and the panel shall
166 make such statement a part of the record at the parole hearing.

167 Sec. 6. Section 54-91c of the general statutes is repealed and the
168 following is substituted in lieu thereof:

169 (a) For the purposes of this section, "victim" means a person who is
170 a victim of a [class A, B or C felony or a violation of section 53a-72a or
171 53a-72b] crime, the legal representative of such person or a member of
172 a deceased victim's immediate family.

173 (b) Prior to the imposition of sentence upon any defendant who has
174 been found guilty of [a class A, B or C felony or a violation of section

175 53a-72a or 53a-72b] any crime or has pleaded guilty or nolo contendere
176 to any [class A, B or C felony or a violation of section 53a-72a or 53a-
177 72b] crime and prior to the acceptance by the court of a plea of guilty
178 or nolo contendere made pursuant to a plea agreement with the state
179 wherein the defendant pleads to a lesser offense than the offense with
180 which such defendant was originally charged, the court shall permit
181 the victim of the crime to appear before the court for the purpose of
182 making a statement for the record, which statement may include the
183 victim's opinion of any plea agreement. In lieu of such appearance, the
184 victim may submit a written statement or, if the victim of the crime is
185 deceased, the legal representative or a member of the immediate
186 family of such crime victim may submit a statement of such deceased
187 crime victim to the state's attorney, assistant state's attorney or deputy
188 assistant state's attorney in charge of the case. Such state's attorney,
189 assistant state's attorney or deputy assistant state's attorney shall file
190 the statement with the sentencing court and the statement shall be
191 made a part of the record at the sentencing hearing. Any such
192 statement, whether oral or written, shall relate to the facts of the case,
193 the appropriateness of any penalty and the extent of any injuries,
194 financial losses and loss of earnings directly resulting from the crime
195 for which the defendant is being sentenced. After consideration of any
196 such statements, the court may refuse to accept, where appropriate, a
197 negotiated plea or sentence, and the court shall give the defendant an
198 opportunity to enter a new plea and to elect trial by jury or by the
199 court.

200 (c) Prior to the imposition of sentence upon such defendant and
201 prior to the acceptance of a plea pursuant to a plea agreement, the
202 state's attorney, assistant state's attorney or deputy assistant state's
203 attorney in charge of the case shall advise the victim of such crime of
204 the date, time and place of the original sentencing hearing or any
205 judicial proceeding concerning the acceptance of a plea pursuant to a
206 plea agreement, provided the victim [or, if the victim of the crime is
207 deceased, the legal representative or a member of the immediate
208 family of such deceased crime victim] has informed such state's

209 attorney, assistant state's attorney or deputy assistant state's attorney
210 that such victim wishes to make or submit a statement as provided in
211 subsection (b) of this section and has complied with a request from
212 such state's attorney, assistant state's attorney or deputy assistant
213 state's attorney to submit a stamped, self-addressed postcard for the
214 purpose of such notification. If the state's attorney, assistant state's
215 attorney or deputy assistant state's attorney is unable to notify the
216 victim, [or any family member of such victim if such victim is
217 deceased,] such state's attorney, assistant state's attorney or deputy
218 state's attorney shall sign a statement as to such notification.

219 (d) Upon the request of a victim, prior to the acceptance by the court
220 of a plea of a defendant pursuant to a proposed plea agreement, the
221 state's attorney, assistant state's attorney or deputy assistant state's
222 attorney in charge of the case shall provide such victim with the terms
223 of such proposed plea agreement in writing.

224 (e) The provisions of this section shall not apply to any proceedings
225 held in accordance with section 46b-121 or section 54-76h.

226 Sec. 7. Subsection (a) of section 52-259a of the general statutes is
227 repealed and the following is substituted in lieu thereof:

228 (a) Any member of the Division of Criminal Justice, the Division of
229 Public Defender Services or the Family Division or Support
230 Enforcement Division of the Superior Court, the Attorney General, an
231 assistant attorney general, the Consumer Counsel, any attorney
232 employed by the Office of Consumer Counsel within the Department
233 of Public Utility Control, the Department of Revenue Services, the
234 Commission on Human Rights and Opportunities, the Freedom of
235 Information Commission, the Board of Labor Relations, [or] the Office
236 of Protection and Advocacy for Persons with Disabilities or the Office
237 of the Victim Advocate, or any attorney appointed by the court to
238 assist any of them or to act for any of them in a special case or cases,
239 while acting in [his] such attorney's official capacity or in the capacity
240 for which [he] such attorney was appointed, shall not be required to

241 pay the fees specified in sections 52-258, 52-259 and 52-259c, subsection
242 (a) of section 52-356a, subsection (a) of section 52-361a and subsection
243 (n) of section 46b-231.

244 Sec. 8. Section 46a-13c of the general statutes is repealed and the
245 following is substituted in lieu thereof:

246 The Victim Advocate may, within available appropriations:

247 (1) Evaluate the delivery of services to victims by state agencies and
248 those entities that provide services to victims, including the delivery of
249 services to families of victims by the Office of the Chief Medical
250 Examiner;

251 (2) Coordinate and cooperate with other private and public agencies
252 concerned with the implementation, monitoring and enforcement of
253 the constitutional rights of victims and enter into cooperative
254 agreements with public or private agencies for the furtherance of the
255 constitutional rights of victims;

256 (3) Review the procedures established by any state agency or other
257 entity providing services to victims with respect to the constitutional
258 rights of victims;

259 (4) Receive and review complaints of persons concerning the actions
260 of any state or other entity providing services to victims and
261 investigate those where it appears that a victim or family of a victim
262 may be in need of assistance from the Victim Advocate; and

263 (5) File a limited special appearance in any court proceeding for the
264 purpose of advocating for the legal rights of a victim. [:

265 (A) The right to notification of court proceedings;

266 (B) The right to attend the trial and all other court proceedings the
267 accused has the right to attend, unless such person is to testify and the
268 court determines that such person's testimony would be materially

269 affected if such person hears other testimony;

270 (C) The right to object to or support any plea agreement entered into
271 by the accused and the prosecution and to make a statement to the
272 court prior to the acceptance by the court of the plea of guilty or nolo
273 contendere by the accused;

274 (D) The right to make a statement to the court at sentencing;

275 (E) The right to restitution which shall be enforceable in the same
276 manner as any other cause of action or as otherwise provided by law;
277 and

278 (F) The right to information about the arrest, conviction, sentence,
279 imprisonment and release of the accused;

280 (6) Ensure a centralized location for victim services information;

281 (7) Recommend changes in state policies concerning victims,
282 including changes in the system of providing victim services;

283 (8) Conduct programs of public education, undertake legislative
284 advocacy, and make proposals for systemic reform;

285 (9) Monitor the provision of protective services to witnesses by the
286 Chief State's Attorney pursuant to section 54-82t; and

287 (10) Take appropriate steps to advise the public of the services of the
288 Office of the Victim Advocate, the purpose of the office and
289 procedures to contact the office.]

290 Sec. 9. Section 46a-13d of the general statutes is repealed and the
291 following is substituted in lieu thereof:

292 (a) (1) All state, local and private agencies shall have a duty to
293 cooperate with any investigation conducted by the Office of the Victim
294 Advocate. Consistent with the provisions of the general statutes
295 concerning the confidentiality of records and information, the Victim

296 Advocate shall have access to, including the right to inspect and copy,
297 any records necessary to carry out the responsibilities of the Victim
298 Advocate as provided in section 46a-13c. Nothing contained in this
299 subsection shall be construed to waive a victim's right to
300 confidentiality of [communication] communications or records as
301 protected by [and provisions] any provision of the general statutes or
302 common law.

303 (2) The Victim Advocate may issue subpoenas to compel the
304 attendance and testimony of witnesses or the production of books,
305 papers and other documents and to administer oaths to witnesses in
306 any matter under the Victim Advocate's investigation. If any person to
307 whom such subpoena is issued fails to appear or, having appeared,
308 refuses to give testimony or fails to produce the evidence required, the
309 Victim Advocate may apply to the superior court for the judicial
310 district of Hartford which shall have jurisdiction to order such person
311 to appear and give testimony or to produce such evidence, as the case
312 may be.

313 Sec. 10. Subsection (c) of section 53a-28 of the general statutes is
314 repealed and the following is substituted in lieu thereof:

315 (c) In addition to any sentence imposed pursuant to subsection (b)
316 of this section, if a person is convicted of an offense that resulted in
317 injury to another person or damage to or loss of property, the court
318 shall order the offender to make financial restitution [if it determines
319 that financial restitution is] under terms that it determines are
320 appropriate. In determining [whether] the appropriate terms of
321 financial restitution, [is appropriate,] the court shall consider: (1) The
322 financial resources of the offender and the burden restitution will place
323 on other obligations of the offender; (2) the offender's ability to pay
324 based on installments or other conditions; (3) the rehabilitative effect
325 on the offender of the payment of restitution and the method of
326 payment; and (4) other circumstances, including the financial burden
327 and impact on the victim, that the court determines makes the terms of

328 restitution appropriate. [or inappropriate.] Restitution ordered by the
329 court pursuant to this subsection shall be based on easily ascertainable
330 damages for injury or loss of property, actual expenses incurred for
331 treatment for injury to persons and lost wages resulting from injury.
332 Restitution shall not include reimbursement for damages for mental
333 anguish, pain and suffering or other intangible losses, but may include
334 the costs of counseling reasonably related to the offense.

335 Sec. 11. Subsection (d) of section 46b-140 of the general statutes is
336 repealed and the following is substituted in lieu thereof:

337 (d) If the child has engaged in conduct which results in property
338 damage or personal injury, the court [may] shall order the child or the
339 parent or parents or guardian of the child, if such parent or parents or
340 guardian had knowledge of and condoned the conduct of the child, or
341 both the child and the parent or parents or guardian, to make [full or
342 partial] restitution to the victim of such offense, provided the liability
343 of such parent or parents or guardian shall be limited to an amount not
344 exceeding the amount such parent or parents or guardian would be
345 liable for in an action under section 52-572. Restitution may consist of
346 monetary reimbursement for the damage or injury, based on the
347 child's or the parent's, parents' or guardian's ability to pay, as the case
348 may be, in the form of a lump sum or installment payments, paid to
349 the court clerk or such other official designated by the court for
350 distribution to the victim.

351 Sec. 12. (NEW) The Chief Court Administrator shall provide office
352 space and telephone service in each courthouse for family violence
353 victim advocates.

Statement of Purpose:

To require notification of victims when a person requests to be exempted from registering as a sexual offender or requests restriction on the dissemination of registration information, to permit victims of class D felonies and misdemeanors to appear and make a statement before the court, Board of Pardons, Psychiatric Security Review Board and Board of Parole, to allow the victim of an offense that resulted in

physical injury to appear and make a statement before the Board of Pardons, to waive certain filing fees for attorneys in the Office of the Victim Advocate, to authorize the Victim Advocate to file a limited special appearance to advocate a victim's legal rights, to authorize the Victim Advocate to issue subpoenas, to mandate restitution to crime victims and to require office space be furnished to victim advocates in courthouses.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]